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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,178	08/24/2001	Leonard D. Rood	ROODF 103	2604

2555 7590 01/30/2003

KREMBLAS, FOSTER, PHILLIPS & POLLICK  
7632 SLATE RIDGE BOULEVARD  
REYNOLDSBURG, OH 43068

EXAMINER
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COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/939,178

Applicant(s)

ROOD, LEONARD D.

Examiner

Elizabeth M Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-6 and 8-10 is/are rejected.

7) Claim(s) 7 is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other:

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1. Claims 5, 6, 8, 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 5-6 and 9-10, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Also, it is not clear how the wood fibers, shredded cardboard, wood mulch and sawdust are different from "cellulosic fibers and paper pieces". Are they included in the weight of "Cellulosic fibers"?

In claim 8, the recitation "of the type" renders the claim indefinite because it is not clear what is meant by "type", ie., is this an additional limitation which further defines the insulation?

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rood, U.S. Patent No. 5,455,065 in view of Smith, U.S. Patent No. 4,468,336 and Applicant's specification at page 3, lines 1-2. Rood discloses an insulation product comprising shredded cellulosic materials which are coated with an anti-static agent and limestone and then admixed with a fire retardant agent. The proportions disclosed by Rood are the same as those in the instant invention. See col. 3, lines 17-41. Rood differs from the claimed invention because Rood

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does not disclose adding positively charged fibers to the insulation product. Smith teaches that including staple fibers such as polypropylene, polyethylene, acetate, acrylic, vinyl and polyester fibers extends the insulation and therefore a lower weight of insulation is required for a given space. See col. 1, lines 65-67 and col. 2, lines 40-45. Applicant's specification states that these fibers are positively charged. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included staple fibers in the insulation material of Rood as taught by Smith. One of ordinary skill in the art would have been motivated to include the staple fibers in order to extend the cellulosic insulation.

4. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP 54-103,427 (abstract only), discloses incorporating positively charged asbestos fibers into negatively charged mixture in order to form a uniform product.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 5:00 PM Monday through Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for official faxes is (703) 872-9310. The fax number for official after final faxes is (703) 872-9311. The fax number for unofficial faxes is (703) 305-5436.

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*Elizabeth M. Cole*

Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c

January 22, 2003